

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
1998 Biennial Regulatory Review)
Streamlined Contributor Reporting)
Requirements Associated with Administration)
Of Telecommunications Relay Services, North)
American Numbering Plan, Local Number)
Portability, and Universal Service Support)
Mechanisms)

CC Docket No. 98-171

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF BELL SOUTH

BellSouth Corporation and its related affiliates ("BellSouth"), hereby comment on the issues raised in the Notice of Proposed Rulemaking ("Notice") and Notice of Inquiry ("NOI"), FCC 98-233, released September 25, 1998, in the captioned proceeding. For ease of reference, BellSouth has followed the order of presentation of the issues set forth in the Notice.

I. Introduction

BellSouth supports the changes the Commission proposes to the reporting and filing requirements for the Telecommunications Relay Services ("TRS"), universal service, North American Numbering Plan ("NANP"), and Local Number Portability ("LNP") cost recovery mechanisms. BellSouth believes that most of the proposed changes will result in a legitimate reduction of repetitious work. Moreover, the changes appear appropriate to allow the Commission to carry out the mandates prescribed to it by Congress as set forth in the Telecommunications Act of 1996 ("1996 Act").

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II. Background

The Background section provides a brief history and explanation of the different cost recovery mechanisms identified in the introduction. BellSouth offers no comment on any of the information discussed in this section.

III. Consolidating Contributor Reporting Requirements

A. Overview

BellSouth concurs with the Commission's characterization that the current reporting requirements for each of the different types of cost recovery mechanisms identified above are both burdensome and inconsistent. The cost recovery mechanisms currently require entities to report data from different revenue bases, over different reporting periods, to be filed at different times throughout the year. As the Notice states, this reporting "scheme increases the chance of inconsistencies between filings by the same carrier, because different filings may be based on financial records that are taken from different points of time. We expect that these processes require contributors to maintain multiple sets of records that might be otherwise unnecessary."¹ The Commission's expectations are indeed accurate. Accordingly, for the reasons set forth in the Notice and the comments herein, BellSouth supports the conclusions and recommendations made by the Commission.

B. Telecommunications Reporting Worksheet

The Notice proposes to consolidate the reporting requirements for each of the cost recovery mechanisms identified herein into one report -- the Telecommunications Reporting Worksheet ("TRW"). The TRW is a welcomed replacement for the existing reporting mechanisms. The TRW will facilitate carriers reporting of data and eliminate the burden of

¹ Notice ¶ 16.

reporting the same information in multiple formats. It will also eliminate the inconsistencies that can occur among the current reports. Consequently, BellSouth endorses the Commission's recommendation to include the universal service, LNP, TRS, and NANPA reporting requirements in the proposed TRW. Moreover, BellSouth is in accord with the Commission's suggestion to include the designated agent for service of process and relevant revenue and plant data required by 47 C.F.R. § 43.21(c) in the TRW. BellSouth believes that the implementation of the TRW will decrease the administrative burden placed on carriers and will allow them to incur savings over the cost of having to prepare four separate reports.²

C. Uniform Schedule and Location for Filing Contribution Data

The Notice proposes that the TRW be filed once a year except for carriers that are required to contribute to the universal service mechanism. Those required to contribute to universal service must file the TRW on a semi-annual basis. The Notice recommends a filing date of April 1st for all carriers and suggests that all universal service contributors file a second report on September 1st of each year.

BellSouth supports the Commission's recommendations regarding the filing requirements, however, contends that the Commission should clarify several ambiguous matters in the Notice. While these clarifications may seem minor, BellSouth believes it to be very important for the Commission to give thought to these items and not assume that a smooth transition to this reporting process will occur automatically. The first issue that should be resolved is where the report will be filed. The filing schedule on page 11 of the Proposed Instructions to the TRW states only that a completed worksheet is to be filed. The rules do not, however, inform the filing party where or with whom to file the TRW. Moreover, the rules do

² Although the Notice requests carriers to quantify savings, BellSouth is not currently able to assign a dollar value to such savings.

not identify the number of copies that the carriers should file. The Commission should make clear such requirements in any order that it releases. Failure to attend to these types of details will only complicate the logistics of the filing process and frustrate both the carriers and the Commission staff.

BellSouth also asserts that the Commission should be mindful of the fact that pursuant to the Notice, the first TRW would be due on April 1st while the current report for universal service is due March 31st, the current report for TRS is due April 26th, and the current report for NANP is due March 12th. It is BellSouth's position that implementation of the TRW should be sooner rather than later. To do otherwise only requires the carriers to extend, for one more year, the burdensome reporting requirements that this Notice seeks to eliminate. Accordingly, the Commission should suspend the current reporting requirements. In the event that the Commission cannot implement the TRW prior to April 1st, the Commission should extend the date of the first filing as necessary. BellSouth contends that filing the TRW late is preferable, to both the Commission and the carriers, as opposed to requiring the current reports to be filed again.

D. Basis for Assessing Contributions

BellSouth fully supports the Commission's conclusion to base the assessment of contributions to the TRS fund and the NANP fund on end-user revenue. BellSouth agrees with the Commission that basing the assessment on end-user revenue will "serve the underlying purposes of those mechanisms, as set out in the statutory requirements of the Communications Act [(1996 Act)], at least as well as the current funding bases."³

³ Notice ¶ 34.

As the Commission states, the 1996 Act requires that costs for TRS be recovered “from all subscribers for every interstate service.”⁴ End-user revenue clearly accomplishes this mandate. Moreover, basing the assessment for contributions to the NANP fund accomplishes the requirement of the 1996 Act set forth in Section 251(e) that the costs be “borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”⁵

Because the statutory requirements will be met through the use of end-user revenue, the Commission is correct in prescribing the assessments on this basis. If the assessment for these funds continued to be based on net or gross revenue, while the universal service and LNP assessments are based on end-user revenue, an undue burden would be placed on carriers in determining and reporting their contributions to the different funds.

Finally, assessing the contributions for all of the cost recovery mechanisms on one basis – end-user revenue – will also ease the Commission’s burden of tracking the contributions of the carriers, thus freeing up needed resources for more worthwhile purposes. Accordingly, the Commission should adopt its tentative conclusion regarding the bases for assessing contributions to the TRS and NANP funds on end-user revenue.

E. Minimum and Fixed Annual Contributions to NANPA and TRS Mechanisms

In its *Fourth Order on Reconsideration*⁶ the Commission clarified and amended its rules regarding contributions to the universal service fund. Specifically, the Commission modified its

⁴ Id. ¶ 38.

⁵ Id. ¶ 42.

⁶ In the Matter of Federal-State Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318, 5482 (“*Fourth Order on Reconsideration*”)

definition of the *de minimus* exemption for telecommunications carriers increasing the threshold from \$100 to \$10,000. In addition, the new *de minimus* standard changed the treatment of the revenues of resellers that are subject to the *de minimus* exemption. Such revenues are now considered end-user revenues of the underlying carrier.⁷

From a practical standpoint, the Commission's decision to shift the reseller's obligation to the underlying carrier has created an administratively complex situation for both the reseller and the underlying carrier and has effectively transferred the reseller's administrative burden to the underlying carrier. The information required to populate the current Form 457 is largely available from carriers' accounting records or administrative reports summarizing the data. Under the Commission's *de minimus* rules, however, exempt resellers must notify the underlying carrier of their exempt status in order to be relieved of their reporting requirements. The underlying carrier must then include resellers' revenues in calculating its universal service fund obligation rather than excluding these amounts as would normally be the case.

In order to comply with this procedure, the underlying carrier is required to search its billing records and identify the revenues from the individual accounts billed to carriers requesting exclusion. This difficult and time-consuming process has the effect of transferring the administrative burden of capturing the exempt resellers' revenues to the underlying carrier. The Notice specifically states that through this rulemaking proceeding the Commission "propose[s] to simply [its] filing requirements"⁸ Accordingly, the Commission should review its *de minimus* rules for universal service and, either through a further rulemaking proceeding or by its

⁷ BellSouth disagreed with the Commission's decision to shift the burden of the resellers obligation to the underlying carrier. BellSouth contends that this reclassification of revenue was not competitively neutral. See BellSouth Comments on Petitions for Reconsideration of *Fourth Order on Reconsideration* dated March 25, 1998, and BellSouth Comments in response to FCC's Report to Congress in CC Docket No. 96-45 dated January 26, 1998.

⁸ Notice ¶ 1.

own order, revise the rule by spreading the universal service burden of exempt resellers across all contributing carriers and not merely to the underlying carrier of the reseller.

F. Procedures for Future Changes to the Telecommunications Reporting Worksheet

BellSouth opposes the Commission's proposal to delegate authority to make contribution-affecting changes to the TRW to the Chief of the Common Carrier Bureau. BellSouth contends that any changes that manipulate the amount of contributions a carrier may be required to pay would be a change in rules that would require a full rulemaking proceeding.

BellSouth, however, does not oppose delegating authority to make non-contribution-affecting changes to the TRW to the Common Carrier Bureau Chief. For such changes the Commission should prescribe time parameters that the Common Carrier Bureau's Chief must follow. For example, before any non-contribution-affecting change is made to the TRW, the Common Carrier Bureau Chief should give all carriers proper notice of the change and allow the carriers enough time to implement the change. Failure to provide ample time for notice and implementation will place an undue burden on the carriers. Additionally, wireless carriers are significant contributors to these cost recovery mechanisms and therefore should not be prejudiced by any change made by the Common Carrier Bureau Chief unless the wireless issues have been taken into consideration. Therefore, before the Common Carrier Bureau Chief prescribes any non-contribution-affecting changes in the TRW, the appropriate input from the Wireless Telecommunications Bureau must be obtained in order to assess any potential impact on wireless carriers.

Thus, the Commission should include in any order issued pursuant to this docket the requirement that any non-contribution-affecting changes prescribed by the Common Carrier Bureau Chief to the TRW must not be implemented with less than 90 days advance notice.

Moreover, the order should direct the Common Carrier Bureau Chief to consult with the Wireless Telecommunications Bureau before proposing any such changes to the TRW.

G. Authorize Sharing of Information Between Administrators

In this section the Commission requests comments on a proposal to permit the “sharing of billing and collection information between the TRS, universal service, NANP, and LNP administrators.”⁹ As part of this proposal the Commission recommends that carriers be allowed to certify, by checking a box on the TRW, that revenue data reported in the TRW is privileged and confidential commercial or financial information.¹⁰

While BellSouth realizes that sharing could benefit the administrators, BellSouth emphasizes its right to protect any proprietary information from public disclosure. Allowing the carriers to make this designation by checking a box on the TRW relieves the carriers of the unnecessary administrative burdens. Accordingly, BellSouth does not oppose the Commission’s proposal to allow the various administrators the ability to share such information provided that the Commission adopts its proposal to allow revenue data to be certified as privileged and confidential by checking a box on the TRW. Additionally, it must require the administrators to comply with the confidential designation.

H. Electronic Filing

The Notice proposes that the carriers and administrators work toward the ability to file the TRW electronically. BellSouth does not oppose the idea of electronic filing, however, remains skeptical about the practice. As the Commission recognized in the Notice, “the technical details of how electronic filing is accomplished can be complex and expensive for both

⁹ Id. ¶ 56.

¹⁰ This procedure is currently allowed under the Universal Service Worksheet.

the administrator and reporting carriers.”¹¹ Accordingly, the Commission should avoid any mandate that requires the TRW be filed electronically by a specific date.

Instead, BellSouth suggests that the Commission first conduct a cost-benefit analysis to determine if the cost for development will outweigh the benefits gained by implementation.¹² Only if this analysis yields a positive benefit should implementation go forward. Moreover, if implementation is determined to be beneficial, an electronic filing requirement should not be placed on the carriers until the system has been fully tested and all parties are in agreement that the system is functioning properly.

IV. Notice of Inquiry

In addition to the proposals set forth in the Notice, the Commission issued an adjoining Notice of Inquiry (“NOI”) regarding “additional steps [it] could take to further rationalize the contribution mechanisms currently in place and reduce filing burdens on parties.”¹³ The NOI asks for comments about whether to adopt a single agent to perform billing and collection functions. BellSouth supports the adoption of a single agent. Indeed, BellSouth believes that the proposed FCC Form 499 is designed to be processed by one agent. Furthermore, a single agent would be less burdensome on the carriers as opposed to having to deal with four separate agents. Accordingly, BellSouth endorses the use of a single agent.

In addition to the items listed in the NOI, BellSouth requests the Commission to also consider another issue. Currently, and as proposed in the FCC Form 499, each legal entity must submit a separate report. This is extremely burdensome for carriers, such as BellSouth, that have

¹¹ Id. ¶ 61.

¹² The Commission should analyze both the cost of developing a separate system and the cost of using an existing system. BellSouth is opposed to the development of a separate system for electronic filing purposes and believes that the analysis will show that the cost for such a system is far greater than the benefits.

¹³ NOI ¶ 63.

a multitude of separate legal entities that are wholly owned subsidiaries of a holding corporation. BellSouth submits that the Commission should require a separate report based on similar types of operations, e.g., local wireline, cellular, personal communication services, payphone, or other major operating areas. BellSouth can fathom no need to require the reporting on an individual company basis. Consequently, BellSouth asks the Commission to consider allowing carriers to consolidate reporting of the FCC Form 499 by operating area.

Conclusion

BellSouth believes that the proposals set forth in the Notice will reduce its regulatory administrative burden and complement the filing process. Therefore, based on the forgoing, BellSouth supports, subject to certain caveats, the proposals recommended by the Commission in the Notice.

Respectfully submitted,

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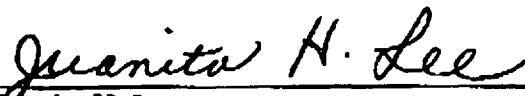
CERTIFICATE OF SERVICE

I do hereby certify that I have this 30th day of October 1998 served the following parties to this action with a copy of the foregoing COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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*** VIA HAND DELIVERY**